



***RPI Training and
Calculation Worksheet
Application Guide***

**Federal Judicial Center
November 1997**

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Calculation Worksheet
Application Guide***

Table of Contents

Introduction 1

Text of RPI Application Screens 2

Item Definitions 2

 Date Supervision Started 2

 What was the offender's date of birth? 3

 How many times was the offender arrested prior to the instant offense (0–15)? 3

 Was a weapon used in the commission of the instant offense? 3

 Was the offender employed at the start of supervision? 4

 Does the offender have a history of illegal drug usage or alcohol abuse? 4

 Has the offender ever absconded from a previous period of supervision? 5

 Does the offender have a college degree? 5

 Was the offender living with a spouse and/or children at the start of supervision? 5

Main Menu 6

Introduction Screens 7

Training Screens 11

Training Help Screens 13

RPI Worksheet Screens 15

Case Studies: Text of Supporting Materials 18

 Case #1 (Marie L. Brown)

 Background 18

 Presentence Report 19

 Interview 26

 NCIC Report 29

 Case #2 (Joe Rocky Green)

 Background 30

 Presentence Report 31

 Interview 41

 NCIC Report 43

 Case #3 (Jeffrey D. Silver)

 Background 45

 Presentence Report 46

 Interview 58

 NCIC Report 61

Introduction

Risk Prediction Index (RPI) implementation packages were sent to every district in May 1997. By now, most, if not all, offices have completed the training and begun using the RPI as an initial risk assessment tool for all new active supervision cases. During this start-up period several probation officers asked if a printed version of the information in the RPI application was available. They felt a printed version would reduce the burden of having to print out individual screens and would make looking up item definitions or case study background information easier.

This pamphlet, therefore, provides hard copies of the requested information:

- RPI item definitions presented in the RPI application;
- other informational and help screens that appear in the RPI application; and
- supporting materials for the case studies.

This document reflects the information as it appears in the original version of the RPI Training and Calculation Worksheet application that was distributed in May 1997.* Clarifications to the information presented, additional guidance on the development and use of the RPI model, answers to frequently asked questions, and descriptions of modifications to the application appear in the RPI FAQs Bulletin (November 1997). Officers should consult the bulletin for additional information.

For Assistance

If you have any questions or need assistance please contact the RPI Coordinator for your district. If your coordinator cannot answer your question, he or she can contact FJC staff for additional assistance at (202) 273-4070, ext. 424 or by sending ccMail to “FJC RPI Coordinator” at “AOHubPO.” In addition, the Center is in the process of developing an RPI Web page that can be accessed via the Federal Judicial Center’s home page on the J-Net (<http://156.132.47.230>). The page will include information about the RPI implementation as well as downloadable copies of RPI materials.

* In a few instances, minor grammatical corrections have been made. These corrections do not alter the substance of the application information.

Text of RPI Application Screens

Item Definitions

Date Supervision Started:

- Enter the date the case file was opened by the probation office. Use the format MM/DD/YY.
- If the offender was released to a halfway house, use the date the offender was released from the halfway house and on-the-street supervision started. Although, technically, supervision started when the offender entered the halfway house, for purposes of completing the RPI, the later “release to the street” date must be used to obtain the correct calculation.

RPI Calculation Worksheet Screen

RPI Calculation Worksheet Screen

quit help main print

Offender's Name: Date Calculated: 9/5/97

PO's Name: Date Supervision Started:

What was the offender's date of birth?

How many times was the offender arrested prior to the instant offense (0-15)?

Was a weapon used in the commission of the instant offense? ☐ No ☐ Yes

Was the offender employed at the start of supervision? ☐ No ☐ Yes

Does the offender have a history of illegal drug usage or alcohol abuse? ☐ No ☐ Yes

Has the offender ever absconded from a previous period of supervision? ☐ No ☐ Yes

Does the offender have a college degree? ☐ No ☐ Yes

Was the offender living with a spouse and/or children at the start of supervision? ☐ No ☐ Yes

Calculate RPI Score

Case Listing Case Comments New Case Delete Case Settings & Preferences

100 Browse

What was the offender's date of birth?

- Enter the offender's date of birth in the format MM/DD/YY. The program will determine the age at the start of supervision automatically.

How many times was the offender arrested prior to the instant offense (0–15)?

- Include all local, state, and federal arrests, regardless of the final disposition of the case.
- Include all juvenile arrests known, including “status” offenses, as well as tribal and foreign offenses.
- Don't count arrests for failure to pay parking tickets, but do count moving traffic violations like DWI or driving recklessly.
- Do a new National Crime Information Center (NCIC) check before you calculate the RPI score, since the PSR may not include all arrests. Some PSRs include only convictions, and some don't include juvenile offenses.
- The number entered should range from 0 to 15. If more than 15 arrests have occurred, enter 15.

Was a weapon used in the commission of the instant offense?

- Consider all types of weapons, not only firearms.
- “Use” includes any possession of a weapon even if it was not brandished, but it does not include the threat of a weapon that the offender did not actually possess.
- Many things that are not normally considered weapons (e.g., tools, sports equipment, belts, boots, dogs) can be used as weapons. However, unless it was used in a threatening or harmful way, an item of this type should not be considered a weapon.

Was the offender employed at the start of supervision?

- In general, anyone who is capable of working but is not working is considered unemployed, even if he or she is otherwise productively occupied.
- Both full-time employment and part-time employment (regular and consistent hours; generally, 20 hours a week or more) count. Verified self-employment that generates a consistent income equivalent to at least 20 hours of work a week is considered employment. Only legal employment counts.
- Students and homemakers are not considered employed.
- Offenders who receive public assistance and are also required to work (Workfare) are considered employed.
- Offenders who are completely disabled (not capable of working) are considered employed. For example, a construction worker who has a broken leg can perform other tasks, and therefore is considered unemployed.
- Offenders who are retired but are capable of employment are considered unemployed.
- To be considered employed, an offender must be working at the time supervision starts or have verified employment that will start within a week.

Does the offender have a history of illegal drug usage or alcohol abuse?

- “History of illegal drug usage” includes intermittent drug use and frequent casual use as well as addiction. One or two instances of drug usage or very infrequent experimentation would not fall into this category.
- A history of abusing legal prescription drugs also counts as drug usage for this category.
- A history of alcohol abuse may be revealed through the case file or reported by the offender. If in the officer’s professional judgment the offender has a history of alcohol abuse (for example, a pattern of DWI arrests or domestic violence arrests while under the influence of alcohol) and the offender will not admit to it, this item can be scored “Yes.” This does not include the casual use of alcohol.

Has the offender ever absconded from a previous period of supervision?

- Include any mention of absconding in the official case records or federal criminal databases.
- This category includes all levels of federal, state, and local supervision. It does not include escape from incarceration, but does include walking away from a halfway house.
- Do not count instances indicated in the case file which could technically be construed as absconding (e.g., leaving the district for an extended period without permission) but for which no “official” action was taken and the offender resumed reporting. For purposes of the RPI, there was no absconding, since no action was taken.

Does the offender have a college degree?

- Include associate’s, bachelor’s, master’s, or professional (J.D., M.D., Ph.D., M.B.A., etc.) degrees issued by an accredited institution. Vocational and technical/trade certificates are not included.

Was the offender living with a spouse and/or children at the start of supervision?

- “Spouse” means a legal spouse only. Don’t include common-law spouses or domestic partners.
- A same-sex spouse is included only if the marriage license is legal in the state where the offender lives.
- Include only the offender’s child or children—biological or legally adopted.

Main Menu

The Main Menu of the RPI application provides four options: Introduction, Training, RPI Worksheet, and Quit Application. Click the appropriate button to select the function you wish to perform.

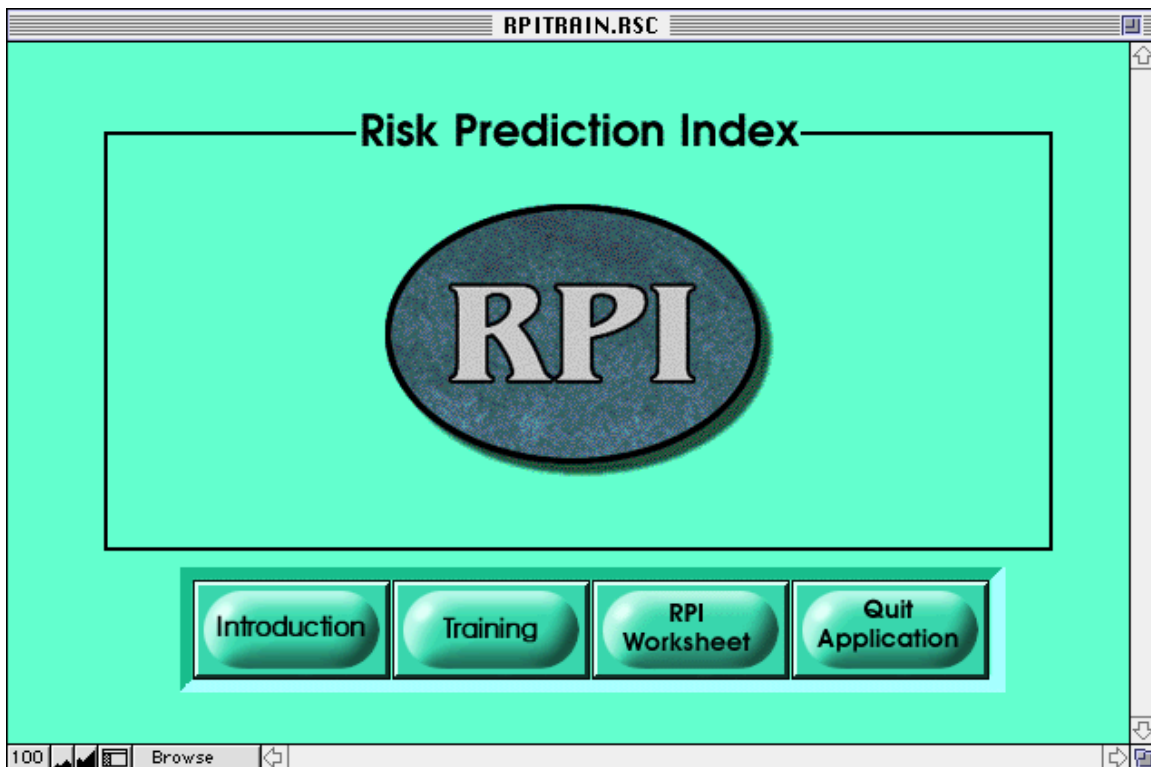
Introduction brings up information on the background and development of the RPI and the use of the application.

Training launches the training module. An overview of the computer-based RPI Training component is displayed first. Then the user has an opportunity to calculate RPI scores for three test cases.

RPI Worksheet launches the calculation module, which allows the user to calculate RPI scores for offenders beginning a new period of active supervision. Item responses, scores, and comments for offenders can be stored in the database, printed for the file, or both.

Quit Application closes the application and returns the user to the Windows environment.

Main Menu Screen of RPI Application



Introduction Screens

Welcome message

Welcome to the Federal Judicial Center's Interactive Program on the Risk Prediction Index.

To begin, click the "Getting started" tab.

Getting started

Please read this Introduction first, by clicking on the tabs from left to right, to answer your basic questions about the RPI. Then return to the Main Menu by clicking on the button and proceed to Training. After you've completed the training module, the RPI Worksheet will be of continuing use to you as you calculate RPI scores for your own cases.

Instructions are provided as you go along. Please read the help screens the first time they appear. If you need to refer to them again, you can access them by clicking the "help" button.

Introduction Screen of RPI Application



Each screen contains buttons that allow you to move from one screen to the next. The menu bar and commands you usually use to navigate in Windows won't work in this program, so please use only the buttons in the RPI application.

What is the RPI?

The Risk Prediction Index (RPI) is a statistical model that uses information about an offender to produce an estimate of the likelihood that the offender will recidivate (i.e., be arrested or have supervision revoked) during his or her term of supervision. The model was developed by the Federal Judicial Center. It is designed to help probation officers assess the recidivism risk presented by an offender so that the supervision plan can include appropriate risk-control measures. The model has been extensively tested and has been shown to be a good predictor of the risk of recidivism for all federal offenders.

How does it work?

The RPI Calculation Worksheet contains a series of questions about the offender that provide input into the model. The resulting RPI score ranges from 0 to 9. Generally, offenders who receive low scores are more likely to succeed on supervision, and offenders who receive high scores are more likely to recidivate. The PO can use an individual offender's score and information about how other offenders who received the same score acted while on supervision (from the "RPI Profiles" pamphlet included with this training package) in developing a plan for addressing the risk presented by the offender. For example, greater risk-control measures might be used for offenders with high RPI scores than for those with low scores.

Sources to use

The RPI focuses on the offender's history and situation when supervision begins, unlike other instruments you may have used, which focus on the offender's situation at the time of the instant offense. Most of the information should be available in the offender's case file. However, you'll have to ask the offender the questions about his or her employment status and living situation when supervision starts.

Generally, you'll get the answers to the RPI items from these sources:

- Presentence Report
- NCIC Report
- Initial interview with the offender (and verification of the offender's information from collateral sources).

Getting it right

Wherever the RPI worksheet appears in this program, you can click anywhere on any item to read commentary for that item, consisting of definitions, examples, and clarifications of unusual situations. Understanding the definitions is a critical part of learning to use the RPI because some of the RPI definitions differ from other definitions

you're accustomed to using—those under the Sentencing Guidelines, for example. Deviating from the RPI definitions can give you a misleading result.

To make sure you're using the RPI correctly and getting the full benefit of its predictive power, it's also important that you complete all three case studies in the Training component of this program.

Learning more

To learn more about the creation and testing of the RPI, click on the “Research” button below.

To learn more about the policy for its use, click on the “Policy” button below.

For a general overview, see *Introducing the Risk Prediction Index*, the FJC video program that your district received with this training package.

For information about recidivism patterns of offenders with various RPI scores, consult the pamphlet “RPI Profiles” that was included with this training package. This profile information may be helpful to you when deciding what risk-control measures to include in your supervision plan.

Research button

In December 1991, the Committee on Criminal Law of the Judicial Conference asked that the issue of risk assessment in the federal probation system be revisited and that a new management tool be created to help federal probation officers better assess the recidivism risk posed by the federal offenders they supervise. In response to this request, the Research Division of the Federal Judicial Center, with the full cooperation and assistance of the Federal Corrections and Supervision Division of the Administrative Office, the Federal Bureau of Prisons (BOP), and the United States Parole Commission, undertook a large-scale recidivism study.

The Center identified a sample of 3,749 offenders who, in 1989, were accepted for active supervision after release from a BOP institution, or upon the imposition of court-ordered probation or other non-incarcerative judicial sanctions. These offenders constitute an 8 percent systematic random sample of all offenders received for supervision in 1989 plus all remaining Native American and sex offender cases received that year (see Note 1).

The Center collected extensive data on more than 3,300 of these offenders directly from case files, conducted a detailed statistical analysis, and developed the new Risk Prediction Index (RPI) based on a logistic regression model of the recidivism rate presented by this cohort of offenders. After the model was developed, it was internally validated and shown to provide more useful assessments of the recidivism risk posed by newly released federal offenders than the recidivism prediction instruments currently used in the federal system.

With the Committee on Criminal Law's approval, in early 1996, a field test was conducted in eleven federal probation districts (see Note 2). The results of the field test indicated that the new risk prediction instrument maintained its predictive accuracy when used to assess a new cohort of offenders who had recently completed active federal supervision. The Center believes that its research demonstrates that the Risk Prediction Index is reliable, valid, and easy to use and interpret.

Notes

1. The Center's sample for this study includes:	
8% systematic sample of all offenders	3,009
Additional Native American offenders	502
Additional sex offenders	<u>238</u>
	3,749

The Native American offender and sex offender populations were oversampled because of their low incidence in the general offender population.

2. The districts that participated in the RPI field test were New Hampshire, Eastern Pennsylvania, Arizona, Utah, New Jersey, Northern California, Central California, Wyoming, Northern Texas, Southern Alabama, and Southern Florida.

Policy button

Federal Corrections and Supervision Division Policy Statement on the Use of the Risk Prediction Index

At its December 1991 meeting, the Criminal Law Committee asked the Federal Judicial Center (FJC) to develop a new risk prediction instrument. The FJC has completed and successfully field tested the Risk Prediction Index (RPI) for use for all cases under the jurisdiction of the courts. The RPI will supersede the use of the Risk Prediction Scale-1980. The new instrument will be used to guide probation officers and managers of the probation system in the case classification process by determining which cases are most likely to be engaged in future criminal conduct and conversely which cases are likely to present a relatively low risk of recidivism. Following approval by the Judicial Conference, officers will use the RPI in the assessment process for all cases received for supervision.

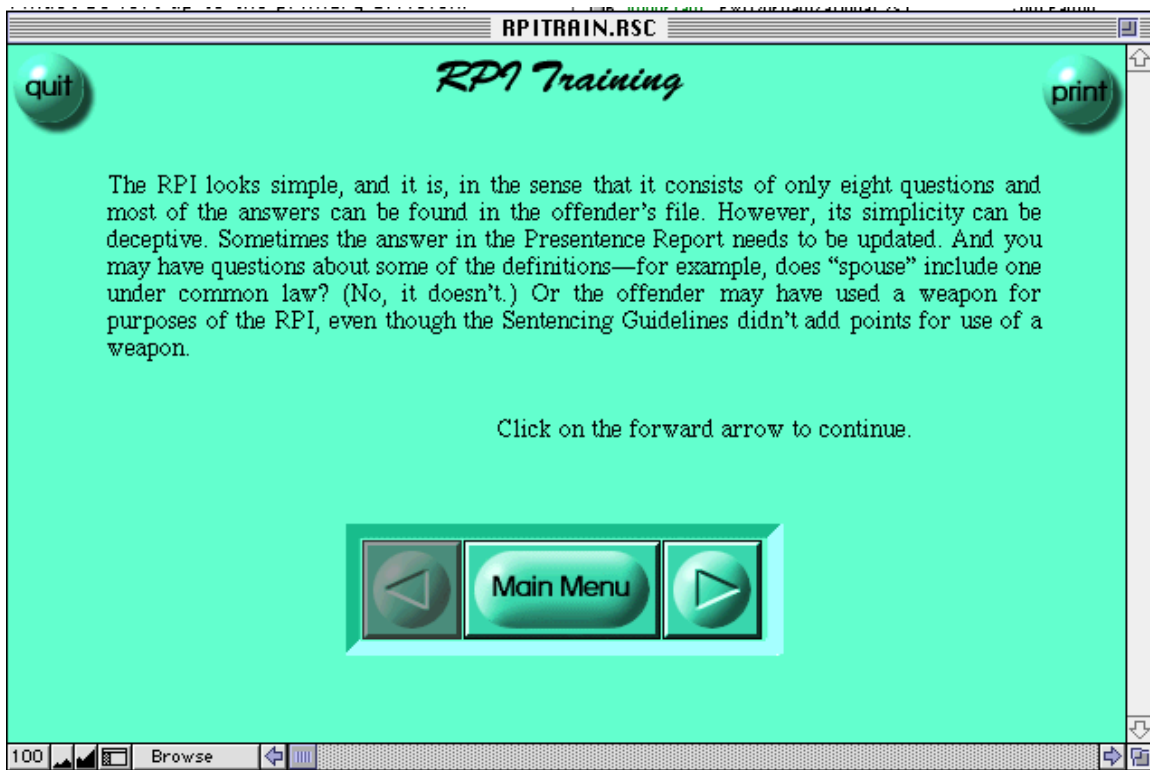
Note: Judicial Conference approval of this policy was obtained in March 1997.

Training Screens

RPI Training (Screen #1)

The RPI looks simple, and it is, in the sense that it consists of only eight questions and most of the answers can be found in the offender's file. However, its simplicity can be deceptive. Sometimes the answer in the Presentence Report needs to be updated. And you may have questions about some of the definitions—for example, does “spouse” include one under common law? (No, it doesn't.) Or the offender may have used a weapon for purposes of the RPI, even though the Sentencing Guidelines didn't add points for use of a weapon.

RPI Training Module (Screen #1)



RPI Training (Screen #2)

The items included in the Index, with their specific definitions, were selected from the many variations that were tested for all the items because the analysis showed that they gave the best predictive ability. Although other definitions of these items are certainly possible, and in some cases may seem more appropriate to you, it's very important that you use the definitions provided for purposes of completing the RPI worksheet.

An error on just one item can change the score on the Index enough to invalidate the result. By completing this training, you can make sure that you understand the Index before you use it with your cases.

RPI Training (Screen #3)

You can practice using the RPI and test your understanding of its finer points by applying it to the three hypothetical case studies that follow.

Each case study includes a variety of issues you're likely to confront when you apply the RPI to your cases. We suggest that you do them in 1-2-3 order for two reasons:

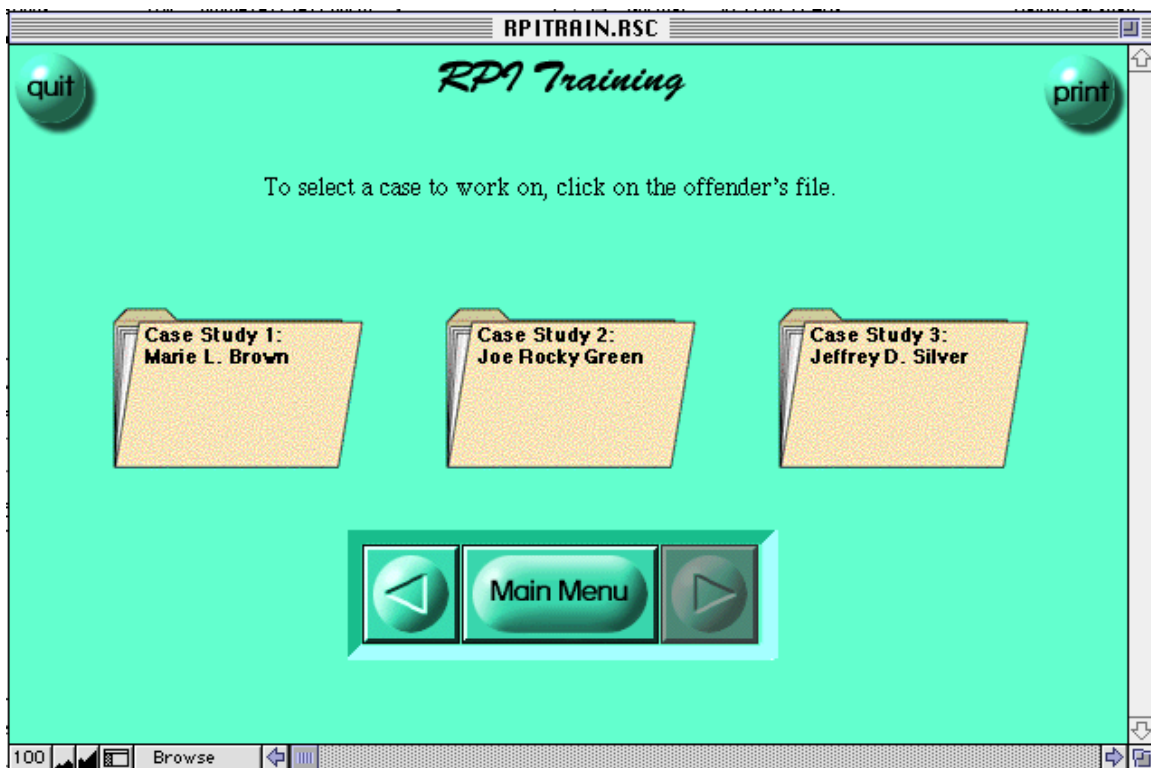
- They range from less difficult to more difficult.
- Case Study 1 includes step-by-step instructions to guide you through the process.

The instructions will appear on help screens only the first time they're needed. After that in Case Study 1, and throughout Case Studies 2 and 3, you can access the instructions by clicking on the "help" button.

Case Selection Screen

To select a case to work on, click on the offender's file.

RPI Training Module Case Selection Screen



Training Help Screens

Background Help Screen

To move back and forth between parts of the case study, click the buttons at the bottom of your screen. You can read the document on the screen or get a hard copy by clicking the “print” button.

You can go to the Worksheet anytime and come back to any other document.

Worksheet Help Screen

You can enter an answer to any Index item at any time. You can change answers until you click the “Calculate RPI Score” button.

To read definitions and examples for an Index item, click anywhere on the item.

When you’re ready, click “Calculate RPI Score” to see the score you gave the offender and compare it to the correct score.

Calculation Evaluation Help Screen

To see why you got an Index item right or wrong, click on the word “correct” or “incorrect” for that item.

The definitions are still here. Click on an Index item to review its definitions and examples.

You can still use the buttons at the bottom of the screen to look back at any of the resources from the case file.

You can make corrections to your worksheet answers directly on this screen by changing the responses in the “Your Answer” column.

When you’ve finished, click the “Case Studies” button at the bottom of the screen to go on to the next case study.

RPI Training Module Calculation Evaluation Screen

Question	Your Answer	Correct Answer	
Date Supervision Started:	4/20/97	4/20/97	Correct
What was the offender's date of birth?	1/20/76	1/20/76	Correct
How many times was the offender arrested prior to the instant offense (0-15)?	0	0	Correct
Was a weapon used in the commission of the instant offense?	<input checked="" type="radio"/> No <input type="radio"/> Yes	<input checked="" type="radio"/> No <input type="radio"/> Yes	Correct
Was the offender employed at the start of supervision?	<input type="radio"/> No <input checked="" type="radio"/> Yes	<input checked="" type="radio"/> No <input type="radio"/> Yes	Incorrect
Does the offender have a history of illegal drug usage or alcohol abuse?	<input checked="" type="radio"/> No <input type="radio"/> Yes	<input type="radio"/> No <input checked="" type="radio"/> Yes	Incorrect
Has the offender ever absconded from a previous period of supervision?	<input checked="" type="radio"/> No <input type="radio"/> Yes	<input checked="" type="radio"/> No <input type="radio"/> Yes	Correct
Does the offender have a college degree?	<input checked="" type="radio"/> No <input type="radio"/> Yes	<input checked="" type="radio"/> No <input type="radio"/> Yes	Correct
Was the offender living with a spouse and/or children at the start of supervision?	<input type="radio"/> No <input checked="" type="radio"/> Yes	<input type="radio"/> No <input checked="" type="radio"/> Yes	Correct

Calculated RPI Score	1	3
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Background

Pre-Sentence Report

Interview

NCIC Report

Case Studies

Retain Training Session Results Dialog Box

Do you wish to retain the current results of this training session or delete all results and clear the application?

Options presented are “Retain” and “Clear.”

This screen appears at the time you exit the application only if you have made any changes to the worksheet of one or more of the training cases in the training module during the session. If you select “Retain,” changes will be recorded in the training module and will be available to you when you launch the application again. If you select “Clear,” all changes that were made to the worksheets in the three training cases will be erased.

Please note that the response to this dialog box has no effect on the retention of records in the RPI Worksheet module. Clearing or retaining those records is controlled by the current setting of the “Retain RPI Records” option in the “Settings and Preferences” screen.

Restore Training Session Results Dialog Box

Do you wish to begin a new training session or return to the results of a previously saved case study?

Options presented are “Previous” and “New Session.”

This screen appears at the time you launch the application only if you have retained any changes to the worksheet of one or more of the training cases in the training module during a previous session. If you select “Previous,” changes that had been recorded in the training module will be available to you again. If you select “New Session,” all changes that were made to the worksheets in the three training cases will be erased.

Please note that the response to this dialog box has no effect on the retention of records in the RPI Worksheet module. Clearing or retaining those records is controlled by the current setting of the “Retain RPI Records” option in the “Settings and Preferences” screen.

RPI Worksheet Screens

Worksheet Help Screen

This worksheet is for your use in scoring your own cases.

If you haven’t completed the training module yet, please do that first. Click the “Main” button at the top of this screen and then click the “Training” button. If you have completed the training, you can begin using this worksheet now.

To calculate an RPI score for an offender:

Click the “New Case” button.

Enter the offender’s name: last, first, middle initial.

Answer the Index items for the offender as you did in the training.

As you did in the training, you can access RPI definitions by clicking on the Index items.

In addition to storing an offender’s RPI worksheet, you can enter and store other information used in your evaluation of the case by clicking the “Case Comments” button.

You can choose either to store the worksheets you complete for offenders or to have them deleted automatically when you quit the application. Click the “Settings and Preferences” button to learn more about the storage functions. Click the “Case Listing” button to view what you have stored.

This message will be displayed every time you open the RPI Worksheet unless you choose to suppress it. You can do that by clicking the “Settings and Preferences” button.

RPI Calculation Module Worksheet Help Screen

Calculation Worksheet

quit help main print

Offender's Name: Date Calculated: 11/5/97

PO's Name: Date Supervision Started:

What was the offender's date of birth?

How many times was the offender arrested prior to the instant offense (0-15)?

Was a weapon used in the commission of the instant offense? ☐ No ☐ Yes

RPIHELP.RSC

This worksheet is for your use in scoring your own cases.

If you haven't completed the training module yet, please do that first. Click the "Main" button at the top of this screen and then click the "Training" button. If you have completed the training, then you can begin using this worksheet now.

To calculate an RPI score for an offender:

Click the "New Case" button.

Enter the offender's name: last, first, middle initial.

OK

Message Box

Records: 80

Unsorted

Settings & Preferences

100 Browse

Case Listing Help Screen

To view the RPI Worksheet for a particular case you have stored in this application, first use the scroll bar located on the right side of the window to locate the case. Then click the case file icon to the left of the offender's name to open the worksheet.

Once you have opened the offender's worksheet, you can also view any other information about the offender that you have stored by clicking the "Case Comments" button.

You can sort your list of cases by offender's name, date of birth, RPI score, calculation date, or date of start of supervision. To sort, click the stacks icon to the right of the appropriate column heading.

To delete a case, first click the case file icon to the left of the offender's name to select the case; then click the "Delete" button.

Case Comments Help Screen

To enter any other information that may help you with your case plan for this offender, click in the "Comments" field. You can also paste information from other documents into this field. This screen will be stored along with the offender's worksheet (if you choose under "Settings and Preferences" to store worksheets).

Settings and Preferences Help Screen

You can adapt the Worksheet module of this application for your personal use by changing the settings below. (These preferences don't affect the Training module.)

Display Help Messages

- Select “yes” to continue to display the help messages on each screen.

or

- Select “no” to suppress the help messages.

It's a good idea to familiarize yourself with this module's capabilities before suppressing the help messages. If you want to read a help message after clicking “no,” you can either click the “help” button at the top of the appropriate screen or come back to this screen and select “yes.”

Retain RPI Records

- Select “yes” to retain a record of the cases that you score using the RPI. The program will store the worksheet plus any additional information you choose to enter under “Case Comments.” If this function is set on “yes,” you can still choose to delete any particular record by clicking the “Delete Case” button. To learn more about case storage, click the “Case Listing” button at the bottom of the worksheet.

or

- Select “no” to have all worksheets deleted automatically when you exit the program.

User Name

- To have your name entered automatically on the worksheet for every new case you open in this program, enter your name here.

Case Studies: Text of Supporting Materials*

Case #1 Background

Marie L. Brown



You received Marie L. Brown's file on April 20, 1997. Earlier that same day, the court placed her on five years' probation with three special conditions:

- she must make restitution of \$4,014.35 to the victim in payments of not less than \$50.00 per month commencing June 5, 1997 (payments to be augmented to be commensurate with any increase in the probationer's ability to pay);
- she must allow the probation office complete access to any requested financial information; and
- she must not incur any new debt until the outstanding restitution amount has been paid in full, unless approved by the probation office.

Today is April 22, 1997. You interviewed Brown this morning, and you've just made a couple of phone calls to verify information she gave you. You're ready to complete her RPI.

* Case supporting materials are based on actual cases filed in the federal system; however, names, places, and other identifying information have been changed. Dates have been updated and some facts and situations have been altered or fabricated to illustrate specific training issues. The individuals pictured here are actors and are in no way associated with the cases presented.

Case #1 Presentence Report

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CENTRALIA

PRESENTENCE REPORT

PREPARED IN ACCORDANCE WITH GUIDELINES OF THE
SENTENCING REFORM ACT

Name (Last, First, Middle)
Brown, Marie L.

Dictation Date
Prepared: Revised:
3/17/97 4/02/97

Address
100 Lost Creek Lane
Beckett, Centralia 77777

Scheduled Sent. Date
04/20/97

Age	Race	Date of Birth	Sex	Docket No.
21	Caucasian	1/20/76	Female	CR 1842 97

Marital Status	Dependents	Soc. Sec. No.
Married	1	001-01-0101

FBI No.	U.S. Marshal No.	Other Identifying No.
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Offense
Obstruction of Mail - 18 USC § 1702 - Count 1
Bank Fraud - 18 USC § 1344 - Count 2

Penalty
Count 1 - 5 yrs. and/or \$250,000 fine

Custodial Status
Free on a \$10,000 unsecured bond 2/2/97 Date of Arrest
N/A

Plea
Pled guilty to Count 1 pursuant to plea agreement.

Verdict

Detainers or Charges Pending
Count 2 - To be dismissed pursuant to plea agreement.

Assistant U.S. Attorney	Defense Counsel
William Black	Karen J. Stout

Sentencing Judge
Levi Jones

Probation Officer
Steven Holmes

Part A - THE OFFENSE

1. On January 10, 1997, a federal grand jury returned a two-count Indictment charging Marie Brown with one count of Obstruction of Mail and one count of Bank Fraud.
2. On February 2, 1997, Marie Brown entered into a plea agreement with the United States Attorney's Office in which she agreed to plea to Count 1, which charged her with Obstruction of Mail. That same day, Marie Brown entered a plea pursuant to the plea agreement.
3. The offense of conviction occurred April 24, 1996, and, therefore, the Sentencing Reform Act of 1984, which became effective for offenses occurring after November 1, 1987, is applicable.

Related Cases

4. None.

The Offense Conduct

5. In April 1996, Marie Brown obtained a \$4,014.35 ABC Corp. stock check dated April 18, 1996, and payable to Keith Stewart. This check had been mailed to but never received by Keith Stewart. The government's investigation reveals that on April 24, 1996, Marie Brown and her husband, Jason Brown, drove to the Beckett Bank, where Marie Brown, using the alias Karen Stewart, arranged to open an account using the check as a deposit. The bank was reluctant to accept the check without the personal approval of Keith Stewart. The defendant, in response, left the bank and returned a few moments later with her husband, Jason Brown, who posed as Keith Stewart and presented a driver's license which satisfied the concerns of the bank teller.
6. The bank opened a savings account in the name of Karen Stewart in the amount of \$3,214.35 and returned \$800 in cash to the defendant.
7. On April 25, 1996, Marie Brown, again representing herself as Karen Stewart, returned to the bank and withdrew the remaining \$3,214.35.
8. Keith Stewart, the intended recipient of the check, contacted ABC Corp. in the latter part of April 1996, and subsequently the government commenced an investigation.
9. The victim of the instant offense is Keith Stewart. None of the \$4,014.35 has been returned to the victim. Any restitution received should be directed to Keith Stewart.
10. The probation officer has no information suggesting that the defendant impeded or obstructed justice.

11. Marie Brown has acknowledged her participation in the instant offense and expresses remorse and contrition for her behavior. As a demonstration of her acceptance of responsibility, she has entered a plea of guilty pursuant to a plea agreement.

Offense Level Computation

12. Base Offense Level: The guideline for 18 USC § 1702, Obstruction of Mail, is found in Section 2B1.1(a) of the guidelines. That guideline calls for a base offense level of 4 if the instant offense involved the theft of property. 4

13. Specific Offense Characteristics: Guideline Section 2B1.1(b)(1)(D) calls for a 3-level increase for theft involving \$4,014. 3

14. Adjustment for Role in the Offense: None. 0

15. Victim-Related Adjustments: None. 0

16. Adjustment for Obstruction of Justice: None. 0

17. Adjustment for Acceptance of Responsibility: Based on the defendant's admission of guilt and her demonstration of remorse, 2 levels are subtracted. -2

18. Total Offense Level 5

PART B - THE DEFENDANT'S CRIMINAL HISTORY

Juvenile Adjudications

19. None.

Criminal Convictions

20. None.

Criminal History Computation

21. The defendant has no criminal convictions; therefore, she has 0 criminal history points and a criminal history category of I.

Other Criminal Conduct

22. None.

PART C - SENTENCING OPTIONS

Custody

23. Statutory Provisions: The maximum term of imprisonment is five years. 18 USC § 1702.

24. Guideline Provisions: Based on a total offense level of 5 and a criminal history category of I, the guideline imprisonment range is 0-5 months.

25. Statutory Provisions: There is no statutorily required term of supervised release unless the court imposes a period of imprisonment of more than one year.

26. Guideline Provisions: The instant offense is a Class D felony. If the court imposes a sentence of imprisonment of more than one year, the court shall also impose a supervised release term of at least two years but not more than three years.

Probation

27. Statutory Provisions: The instant offense is a Class D felony; therefore, the defendant is eligible for probation by statute. 18 USC § 3561(a)(1).

28. Guideline Provisions: The minimum term of imprisonment for the instant offense is 0 months; therefore, probation is authorized by the guidelines. Section 5B1.1(a)(1).

PART D - OFFENDER CHARACTERISTICS

Family Ties, Family Responsibilities, and Community Ties

29. Marie Brown was born on January 20, 1976, in Butler, Centralia. She is the oldest of four children born to Eleanor and James Long. The defendant's father is self-employed as a house mover, and her mother is employed by the Butler Community Center.

30. The defendant has two siblings: Leslie Long, age eighteen, a homemaker; and Karen Long, age fifteen, a student.

31. Marie Brown is married to Jason Brown, age twenty-three. The couple were married in Las Vegas on January 25, 1994. They have one child, Sarah, age sixteen months. This child is in good health and in the defendant's custody. Marie Brown and her husband are expecting their second child on May 18, 1997.

32. Reportedly, the marriage between the Browns has not been without problems. In August 1994, the couple separated for three months, and in January 1995, they separated again for two months. Reportedly, the primary difficulty in the relationship is Jason Brown's manic depressive illness, for which he is considered disabled and receives benefits as well as medication. Jason Brown was hospitalized in August 1995, and at that time, his condition was diagnosed and he began receiving treatment.

33. According to the defendant and her husband, their marriage has improved considerably since Mr. Brown began treatment for his disorder.

34. The defendant and her husband maintain a residence at 100 Lost Creek Lane, Beckett. However, because of the impending birth of their second child, they have moved to the defendant's parents' home near Butler. They will remain there until after the birth of their child.

Mental and Emotional Health

35. There is no indication that the defendant has ever suffered from an emotional or mental disorder.

Physical Condition, Including Drug Dependence and Alcohol Abuse

36. Marie Brown is a Caucasian female. She is 5'2" tall. The defendant is pregnant, and currently her weight is 151 pounds. She reports that her normal weight is 120 pounds.

37. The defendant is expecting her second child on May 18, 1997. It is anticipated to be a normal delivery.

38. The defendant admits to having used marijuana but indicates that her use of the substance has been limited to only a few times each year, and usually during parties and other social gatherings.

Education and Vocational Skills

39. Marie Brown dropped out of Beckett High School in 1992, after having completed the tenth grade. She obtained her GED in May 1993.

Employment Record

40. In July 1993, Marie Brown was employed by the Burgers-2-Go restaurant in Beckett. She remained at that job for only one week. She said that she quit because she did not have transportation. In August 1993, the defendant began employment at Casey's Restaurant in Butler. She remained there one month and resigned because she was not scheduled for enough hours. Since that time, the defendant has not held any type of employment. She has virtually no vocational training.

PART E - FINES AND RESTITUTION

Statutory Provisions

41. The maximum fine for a conviction of 18 USC § 1702 is \$250,000.

42. A special assessment of \$50 is mandatory. 18 USC § 3013.

43. The Victim/Witness Protection Act applies to the instant offense. The victim is Keith Stewart; he suffered a loss of \$4,014.35.

Guideline Provisions

44. The fine range for the instant offense is \$250 to \$2,500. Section 5E4.2(c)(4).

45. Subject to the defendant's ability to pay, the court shall impose an additional fine amount that is at least sufficient to pay the cost to the government of any imprisonment, probation, or supervised release. Section 5E4.2(I). The most recent advisory from the Administrative Office of the United States Courts suggests that a monthly cost of \$1,221 be used for imprisonment and a monthly cost of \$83.33 be used for supervision.

Defendant's Ability to Pay

46. The defendant and her husband have no bank accounts or assets.

47. The defendant and her husband are supported by Social Security and Welfare benefits. The defendant's husband receives \$371 per month in Social Security benefits. The defendant receives food stamps in the amount of \$150 and other benefits in the amount of \$165 per month. Additionally, the defendant receives a rent subsidy from the Department of Housing and Urban Development in the amount of \$350 per month. Including the rent subsidy, the family's monthly income is \$1,036.

48. The defendant said that after her second child is born, she will receive an increase of \$100 in cash benefits and a \$50 increase in her food stamp allotment, bringing the family's total monthly income to \$1,186.

49. The family has limited monthly expenses. They pay rent in the amount of \$489 per month, which includes utilities. They spend in excess of \$200 per month on food and diapers.

50. The defendant and her husband said that they believe they could pay \$50 per month toward restitution or a fine.

51. Given the income of the family from its various sources, I believe that a restitution payment of \$67 per month could be budgeted by the defendant. Such a monthly restitution payment would satisfy the total amount of restitution over a sixty-month period.

PART F - FACTORS THAT MAY WARRANT DEPARTURE

52. There are no aggravating or mitigating circumstances concerning the offense or the offender that would warrant a departure from the prescribed guidelines.

PART G - IMPACT OF PLEA AGREEMENT

53. The defendant is convicted of Count 1, Obstruction of Mail, 18 USC § 1702. Pursuant to a plea agreement, she has pled guilty to this offense, and in return the government will dismiss Count 2, which charges Bank Fraud, 18 USC § 1344. Had the defendant been convicted of both offenses, her criminal behavior would have been grouped with no increase in the guideline range.

Respectfully submitted,

Terrence L. Oaken
U.S. Probation Officer

Case #1 Interview

Excerpt from initial interview with Marie L. Brown, April 22, 1997, 10:30 a.m.

. . . Now I need to ask you some questions about where you're living, your work, things like that. Part of my job is to keep track of what's going on in your life, so you'll need to let me know if there are changes in anything we talk about. That's actually a condition of your probation, that you inform me of any changes in your circumstances, either by telephone or when you report. That's very important, because if you fail to report changes, it can lead to your probation being revoked for a technical violation. So if you have any questions, please ask.

A: I don't have any yet.

Q: Where are you living now?

A: Near Butler, where my parents live. In an apartment, now, since last month. We were staying with my parents before, but that didn't work out too good, so now we're in an apartment two blocks away from them.

Q: "We" is . . . you and who?

A: My husband and my little girl. My mom offered to help out with Sarah, what with the new baby coming, and one thing and another, so we moved in with them. But my husband and my dad—they get along okay but in small doses, you know? So it's just better if they have someplace to go to get away from each other.

Q: So is it working out okay with the apartment?

A: Yeah, but I don't know how long we'll be there. We're still paying rent on our place here on Lost Creek because we didn't really want to move to Butler permanently, but we can't afford two rents for very long. So I don't know.

Q: Are you working now?

A: No. Even if I was, my doctor would make me quit. She wants me on bed rest until the baby comes.

Q: Are you okay now? I mean, is it okay for you to be out of bed?

A: Yeah, I don't have to stay in bed all the time, but just as much as I can. I get up to go to the doctor's office, so why not here?

Q: Well, let me know if that changes. I can come and see you next time. You know I'll be coming to see you anyway before too long.

A: Okay.

Q: When do you think you'll be able to go back to work?

A: I really don't know. I know we need the extra money, but I don't know how I'm going to feel. I guess it depends on how things go with the new baby and how much Mom can baby-sit. Her health is not too good either. If she can't baby-sit every day, it may not make sense for me to go back to work for a while.

Q: What types of skills do you have? I see from your file that you've worked at restaurants before.

A: I don't have a lot of skills. And I'm limited in where I can go to work, because I don't drive. I'm thinking about taking a computer class when the new baby gets older, but right now I really can't do a whole lot. Except I'm good with kids. Maybe I could be a teacher's aide if the computer thing doesn't work out.

(later in the interview)

Q: Marie, I see from your presentence report that you told that officer about some marijuana use.

A: That was years ago. And hardly ever, even then.

Q: When would you say was the last time you used marijuana?

A: Well, it's been more than eight months, that's for sure. Because there's no way I'm going to take drugs when I'm pregnant. I don't even drink beer. I don't even take aspirin, for Christ's sake.

Q: Okay, good for you. And what it says here is, when you did use marijuana, it was just a few times a year? Is that right?

A: Some years not even that. Just at parties, when it was around. Somebody passes me a joint, I'm not going to turn it down. Well, I mean, now I'd turn it down because I'm pregnant. But then, I'd be sociable. But even then, I never went looking for it.

Excerpt from phone conversation with Dr. Estelle Borden, April 22, 1997, 2:15 p.m.

Q: How's Marie's pregnancy going?

A: She's fine. She seems right on schedule to deliver around May 18.

Q: She's not having any special problems that require bed rest?

A: No. Now, I did tell Marie to take it easy, because I got the feeling she was doing more physical work than anybody should at this stage of pregnancy.

Q: But she's not employed, right? Can you tell me what kind of work she was doing?

A: What Marie told me was, she had moved in with her mother so she could get some help with the toddler, but her mother was finding a lot of household projects she needed help with. Marie was concerned about things like carrying laundry up the steps, but she couldn't seem to say no, so I told her to tell her mother she had doctor's orders to take it easy.

Q: But nothing was said about bed rest?

A: No.

Q: So if she had a job doing something like answering phones, that wouldn't be a problem?

A: Not at all.

Case #1 NCIC Report

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
IDENTIFICATION DIVISION
CLARKSBURG, WEST VIRGINIA

C0000011A

PCN 100000000011

BECAUSE ADDITIONS OR DELETIONS MAY BE MADE AT ANY TIME, A NEW COPY
SHOULD BE REQUESTED WHEN NEEDED FOR SUBSEQUENT USE.

---FBI IDENTIFICATION RECORD---FBI NUMBER--NO RECORD FOUND---

WHEN EXPLANATION OF A CHARGE OR DISPOSITION IS NEEDED, COMMUNICATE
DIRECTLY WITH THE AGENCY THAT FURNISHED THAT DATA TO THE FBI.

NAME	FBI NO.	DATE REQUESTED
MARIE L. BROWN		04/22/97

SEX	RACE	BIRTH DATE	HEIGHT	WEIGHT	EYES
F	W	01/20/76	5'2"	151	BLUE

HAIR	BIRTH PLACE
BLONDE	BUTLER, CENTRALIA

FINGERPRINT CLASS				
PO	PM	PM	PM	16
20	PO	PI	CI	16

*****NO MATCH FOUND*****

Case #2 Background

Joe Rocky Green



You received Joe Rocky Green's file on April 21, 1997. He was released from prison on February 24, 1997, after serving seventy months of an eighty-two month sentence. He then spent a little over two months in a halfway house, where he participated in an alcohol abuse counseling and treatment program. He began a three-year supervised release term on April 25, 1997, with two special conditions:

- he must submit to scheduled and unscheduled alcohol and drug testing; and
- he must continue counseling for alcohol abuse.

Today is April 29, 1997. You interviewed Joe Rocky Green yesterday, and a few minutes ago you received a return phone call to verify some information he gave you. You're ready to complete his RPI.

Case #2 Presentence Report

UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF OCEANA
PRESENTENCE REPORT

Name (Last, First, Middle)
Green, Joe Rocky

Dictation Date
Prepared: 4/3/91
Revised: 4/11/91

Address
555 Briar Avenue, Easton, Oceana 00000

Scheduled Sent. Date
4/24/91

Age	Race	Date of Birth	Sex	Docket No.
28	Black	04/01/63	Male	97-005231

Marital Status	Dependents	Soc. Sec. No.
Divorced	None	555-50-1155

FBI No.	U.S. Marshal No.	Other Identifying Number
574661XX1		

Offense
Bank Robbery - 18 USC § 2113(a)

Penalty (statutory)
20 years and \$250,000 fine

Custodial Status	Date of Arrest
In custody since 1/15/91, unable to post bond	1/15/91

Plea
Guilty to one count information on 3/2/91.

Verdict

Detainers or Charges Pending

Other Defendants None

Assistant U.S. Attorney	Defense Counsel
Daphne Bell	Rudyard Jensen

Disposition
Eighty-two months CAG, three-year supervised release and recommended enrollment in alcohol and/or drug programs

Sentencing Judge	Date	Probation Officer
Lawton Swanson	4/19/91	Angela K. Broadwater

Part A. THE OFFENSE

Charge(s) and Conviction(s)

1. On January 15, 1991, the defendant was arrested by the FBI and charged in a complaint with Bank Robbery, Title 18, U.S. Code, Section 2113. The defendant made his initial appearance before Judge Aubrey Addison. The defendant was held in lieu of \$20,000 surety bond. A bail review was conducted on January 23, 1991, bond remained at \$20,000, and the defendant remained in custody.

2. On February 1, 1991, the defendant appeared before the court and was rearraigned on a one-count information charging Bank Robbery, Title 18, U.S. Code, Section 2113(a). The defendant pled guilty to the one-count information. In exchange for the defendant's guilty plea, the Assistant U.S. Attorney will recommend that the court impose a sentence of 82 months. The Court accepted his plea and ordered a presentence investigation. Sentencing was set for April 24, 1991, at 9 a.m.

Related Cases

3. None

The Offense Conduct

4. The First National Bank of Easton is an institution whose deposits are (and were on January 15, 1991) insured by the Federal Deposit Insurance Corporation.

5. On that date, the defendant, Joe Rocky Green, entered the bank wearing a burgundy-colored jacket and white tennis shoes with red stripes. He went immediately to the teller position of Jaime Lynn Harris. He held a brown paper bag in his hand and placed it on the counter. Ms. Harris grabbed the bag and felt a hard object inside it which she understood to be a gun. The defendant took the bag back and said "Give me all your money or I'll blow your fucking head off. No exploding money."

6. Ms. Harris then placed \$12,000.00 on the counter, which included a security dye pack and money with serial numbers that had been prerecorded (bait bills). The defendant then took the money and left the bank through the side door.

7. Shortly after the robbery, in the vicinity of the bank, Easton police officers Marty Fields and Lamar Woods spotted the defendant, who fit the description of the robber that had been broadcast over the police radio. They stopped him and asked for identification, at which point the defendant produced an obviously false driver's license with the name David Robinson. The officers also questioned him about the contents of his bag. The defendant responded that it contained only a hairbrush. The

officers then saw red dye on his hands. They placed him under arrest and returned to the bank, where he was positively identified by the victim teller and two customers. The witnesses observed that the defendant was no longer wearing his jacket; it was recovered later a couple of blocks away.

8. Joe Rocky Green was taken to the Easton Police Station, where he was questioned by Special Agent Elliot Forrest. Agent Forrest advised Mr. Green of his rights. Understanding his rights, Mr. Green waived them and agreed to make a statement. He confessed to having robbed the bank but continued to insist that he was David Robinson. A subsequent NCIC records check revealed that David Robinson was in fact Joe Rocky Green.

9. Later on, at his initial appearance and after the judge advised him of his rights, Mr. Green commented, "I didn't mean to hurt nobody. I just needed some money."

Victim Impact Statement

10. Jaime Lynn Harris, the teller, was interviewed, and she informed the investigating officer that she was petrified during the holdup. She revealed that she is afraid that the bank will be robbed again. She said that she is thinking about looking for another line of work that has nothing to do with handling money.

Adjustment for Obstruction of Justice

11. The probation officer has knowledge that the defendant produced a false document during a judicial proceeding.

Adjustment for Acceptance of Responsibility

12. Shortly after his arrest, the defendant admitted to investigating officers that he committed the offense. The probation officer is of the opinion that the defendant has accepted responsibility and should be entitled to an adjustment pursuant to U.S.S.G. § 3E1.1. See defendant's statement below.

"The reason I try to rob the bank is because I just didn't have nowhere to turn. I did my best to find a job and maintain myself at home, but things just kept going wrong. I was so tired of being on the Welfare and living for that one hundred and twenty-six dollars a month. As I stated before, my ex-wife and two daughters left me. She said it was because of my drinking and not being able to find a good job. Ever since she left me I've just been going downhill, and words could never express how bad I feel about not being able to see my beautiful daughters.

"But I continued to go on with life and keep a hold on myself, so I began to go in and out of hospitals for drinking. I've been to about every alcoholic hospital you could go to in Easton. At this time, I was living with my son's mama, Gertrude Getty. My son is only 16 months old. But after a while she was asking me to leave behind my drinking and, also, she was on the Welfare rolls and they were paying all her bills, so I couldn't stay there any more. But because I didn't want to move

back with my mama, I still was trying to stay there. So she ended up calling the police on me, and the police said I had better not come back to her home anymore.

"So I went back with my mama a few weeks before this happened, and just like the others, she called the police on me. The night before this happened, my mama had called the police on me, and they said I better not come back there, to my mama's house, so after that I didn't have no home at all to go to. I also wasn't able to see my daughters or my son. So I just didn't care about my freedom anymore, because I didn't have no home, no family, or anything. So I did what I did, and may God look out over me when I receive my time or sentence.

"And, Judge Addison, if you are wondering if I am a bank robber, please take what I'm about to say as the truth, the whole truth, and nothing but the truth. If I wasn't drinking and so depressed I wouldn't have did anything like this. I always do little simple things, never nothing as foolish as this. Robbing banks just isn't my MO, please believe me. I was just feeling down and out, walking around downtown and just ran in a bank with a hairbrush and did what I did. I'm so sorry, and I pray that you don't ask for me to get a lot of time."

Offense Level Computation

Count One - Bank Robbery

13. Base Offense Level: The guideline for an 18 U.S.C. § 2113(a) offense is found in U.S.S.G. § 2B3.1(a), which states that offenses involving robbery have a base offense level of 20.

20

14. Specific Offense Characteristics: According to U.S.S.G. § 2B3.1(b)(1)(A), if the property of a financial institution was taken, the offense level is increased by two levels.

+2

15. Specific Offense Characteristics: Pursuant to the provisions found in U.S.S.G. § 2B3.1(b)(2)(F), if an express threat of death was made, the offense level is increased by two levels.

+2

16. Specific Offense Characteristics: Because the amount of the loss was more than \$10,000, but less than \$50,000, the offense level is increased by one level, pursuant to U.S.S.G. § 2B3.1(b)(6)(B).

+1

Chapter Three Adjustments

17. Victim-Related Adjustments: 0

18. Adjustment for Role in the Offense: 0

19. Adjustment for Obstruction of Justice: +2

Adjusted Offense Level, Count One (Subtotal): 27

20. Adjustment for Acceptance of Responsibility: The defendant has demonstrated an affirmative acceptance of responsibility. Therefore, pursuant to U.S.S.G. § 3E1.1(a), the offense level is reduced two levels. -2

21. Pursuant to U.S.S.G. § 3E1.1(b), the defendant qualifies for an additional one-level decrease for timely cooperation and notification of intent to plead guilty. -1

22. Adjusted Offense Level, Count One (Subtotal): 24

Chapter Four Enhancements None.

Total Offense Level, Count One 24

PART B. THE DEFENDANT'S CRIMINAL HISTORY

Juvenile Adjudication(s)

23. 2/5/77 (age 13) Receiving stolen property, three counts; six months probation for each count.

24. 6/6/77 (age 14) Delinquent; dismissed with warning, probation continued.

Attorney representation is unknown.

Adult Criminal Conviction(s) Guideline Points

25. 7/12/81 Theft of property 1

Pled guilty; one-year custody, suspended for one-year probation, \$75 restitution, \$200 fine.

The defendant was represented by an attorney. According to court records, the defendant took the victim's car without permission.

26. 6/9/82 Theft of property 1

Pled guilty; credit time served, six days.

Details of the offense reveal that the defendant attempted to take several items from a local grocery store in Easton. He was stopped as he was attempting to leave the store.

27. 3/26/84 Theft of property 1

Pled guilty; one-year custody, suspended for one-year probation, \$25 restitution, \$100 fine.

Attorney representation is unknown.

28. 4/29/87 Theft, Harassment 1

Details of the offense reveal that the defendant broke into the victim's residence and threatened to kill the victim. He also stole a set of keys and another unidentified object.

Criminal History Computation

The criminal convictions result in a subtotal criminal history score of 4.

Other Criminal Conduct/Other Arrests

Juvenile

29. 3/5/70 (age 6) Shoplifting; dismissed.

30. 7/31/77 (age 14) Delinquent; on 8/14/77 committed to Easton Youth Correctional Center (EYCC); commitment order rescinded on 8/5/78.

31. 2/10/78 (age 14) Delinquent; on 3/23/78 remanded to EYCC; commitment order rescinded on 8/5/78.

32. 4/29/78 (age 15) Delinquent; on 6/4/78 remanded to EYCC; commitment order rescinded on 8/5/78.

Note: The defendant's mother said that he ran away from the juvenile home twice, resulting in his juvenile record in 1978.

Adult

33. 1/14/83 Breaking and Entering, disposition unknown.

34. 12/14/84 Malicious destruction of property; not guilty.

35. 4/15/87 Shoplifting; not guilty.

36. 12/30/88 Malicious destruction of property; disposition unknown.

37. 7/3/90 Non-support; disposition unknown.

38. 7/6/90 Consuming on the street; disposition unknown.

PART C. DEFENDANT CHARACTERISTICS

Personal and Family Data

39. The defendant was born on April 1, 1963, to Betty Claire and Alexander Ralph Green. He is one of four children born to his parents. The defendant's parents divorced and his mother remarried, to a Mitchell Thompson. The defendant said that he was raised by his mother and that he has been in and out of trouble since his youth. The defendant stated that he has an alcohol problem and that he had a heroin problem years ago, but now it's just alcohol that he abuses. The defendant revealed that he has been hospitalized four times for alcoholism.

Father. Alexander Ralph Green, age 50, unknown address.

Mother. Betty Claire Thompson, age 49, resides at 313 Bookman Drive, Easton; she is employed as a teacher's aid at River Road Elementary School.

Stepfather. Mitchell Thompson, age 55, resides at 313 Bookman Drive, Easton; he is unable to work because of diabetes.

Sister. Bijou Green, age 26, resides at 41 Camphor Way, Easton. She is employed by the Easton Department of Mental Health as an intake counselor. She is currently pursuing her bachelor's degree part-time at night.

Sister. Bonita Green, age 24, resides with her mother and stepfather. She is employed by Easton Community College as a research assistant. She is currently enrolled as a full-time student and pursuing an associate degree (veterinarian assistant).

Brother. Brian Green, age 21, also resides with his mother and stepfather. He works for the Elder Oaks community nursing home in Easton.

Marital History

40. The defendant married Karen Graham, now 26, on March 12, 1984, in Hopesville, Oceana. Two children were born from the marriage: Michelle Green, now age 6, and Melanie Green, now age 4. The defendant said that the couple subsequently divorced, but he could not recall the date of the divorce. The defendant's mother acknowledged that the couple divorced approximately three years ago. The defendant said that his ex-wife filed for support several years ago and that he has never paid any support. He revealed that he is supposed to pay \$25.50 per week. The defendant said that he has a girlfriend, Gertrude Getty, age 22. Ms. Getty is a social services recipient who cares for the defendant's child, Joe Rocky Getty, age 16 months. The defendant stated that his girlfriend has filed for child support.

Home and Neighborhood

41. The defendant is in the custody of the U.S. marshal and is currently housed in the Laytonwoods Detention Center.

42. The defendant had lived on an irregular basis with his mother and stepfather prior to his federal arrest on January 15, 1991.

Physical Condition

43. The defendant is 5'7" tall and weighs 140 pounds. He has brown eyes and black hair. The defendant stated that he is in good health.

Mental and Emotional Health

44. The defendant revealed that he has been hospitalized on four occasions for alcoholism. The defendant completed a seven-day detoxification on July 18, 1990. The Discharge Summary revealed that the defendant has been drinking extensively for the past four years. He began drinking at 14 years of age. Currently, he consumes one-half to one gallon of wine per day. The defendant's medical records reflected that his father and brother have a history of alcohol abuse. The defendant has a history of blackouts and tremors. When discharged in

July 1990, he was prescribed Antabuse and told to actively involve himself in Alcoholics Anonymous meetings.

45. The defendant said that in 1986 and again in 1988 he spent 14 days for alcohol detoxification at Haley's New Beginnings Center. A response from the Easton Crisis Center revealed that the defendant was seen on August 30, 1986, for anxiety neurosis and alcoholism. The defendant was referred to Dr. Milton King and treated for "D.T.'s."

46. Mr. Green also indicated that he was treated for alcoholism in 1985 during a six-month stay at the Easton Detoxification Center. The defendant denied using drugs. He then admitted to use of heroin ten years ago, but denied any use since that time. He stated that he "did not have the money or desire."

47. The defendant's mother said that he was "acting like a wild man" on the Sunday before his arrest. She did not smell any alcohol on his breath. She had the police evict him from her home.

Educational and Vocational Skills

48. The defendant said that he completed the eighth grade at Easton Middle School. (verified) He obtained a welding certificate while incarcerated in Easton Youth Correctional Center. Upon his release, the defendant said that he wanted to work as a welder and was not interested in returning to school. School officials were unable to verify his school attendance.

49. Records obtained from the Iron Works Welding Center indicated that the defendant completed an entry-level welding course in July 1978.

Employment Record

50. The defendant was last employed from October 1988 to March 1989 as a factory worker at the Cromwell Textile Mills, earning \$340.00 per week. The defendant voluntarily separated from the employment and would be considered for reemployment. The probation officer spoke to Mr. Bingham Ross, who provided the following information regarding the defendant: "He is a good worker, and he is a good guy. He respected the ladies in the office and he got along with the foreman. We have saws, and we can't have him around when he is drinking. He needs to get rid of that alcohol."

51. From July to September 1985, the defendant was employed by Trane Construction as a laborer, earning \$9.65 per hour. He said that he was fired for missing days.

52. The defendant was employed from March to April 1983 as a welder trainee at Conoco Construction. Company records showed that he quit on April 7, 1983. The defendant said that he was laid off.

Financial Condition: Ability to Pay

53. The defendant has no assets and said that he received \$126.00 per month from the Department of Social Services prior to his incarceration.

PART D. SENTENCING OPTIONS

Custody

Statutory Provisions: Count One - The maximum term of imprisonment for this offense, a Class C felony, is 20 years, pursuant to 18 U.S.C.

§ 2113(a).

Guideline Provisions: Based on a total offense level of 24 and a criminal history category of IV, the guideline range of imprisonment is 77 to 96 months.

Supervised Release

Statutory Provisions: Count One - The court may impose a term of supervised release of not less than three years, pursuant to 18 U.S.C.

§ 3583(b)(2), since this is a Class C felony.

Guideline Provisions: The court may impose a term of supervised release of at least two years, but not more than three years, pursuant to U.S.S.G. § 5D1.2(a)(2).

Probation

Statutory Provisions: Count One - The court may impose a term of probation of at least one, but not more than five, years, in accordance with 18 U.S.S.G. § 3561(b)(1).

Guideline Provisions: The defendant is not eligible for probation pursuant to U.S.S.G. §§ 5B1.1(a), since the minimum guideline range is more than six months.

Fines

Statutory Provisions: Count One - The maximum fine for this offense is \$250,000 pursuant to 18 U.S.C. § 3571.

Guideline Provisions: The fine range for this offense is \$7,500 to \$75,000 pursuant to U.S.S.G. § 5E1.2(c). Subject to the defendant's ability to pay, the court shall impose an additional fine amount that is at least sufficient to pay the costs to the government of any imprisonment, probation, or supervised release ordered, pursuant to U.S.S.G. § 5E1.2(i). The most recent advisory from the Administrative Office of the United States Courts suggests that a monthly cost of \$1,779.33 be used for imprisonment, and a monthly cost of \$195.30 be used for supervision. A daily cost of \$4.97 should be used for electronic monitoring.

Restitution

Statutory Provisions: Count One - Pursuant to 18 U.S.C. § 3663, restitution may be ordered.

Guideline Provisions: In accordance with the provisions of U.S.S.G. § 5E1.1, restitution shall be ordered.

PART E. FACTORS THAT MAY WARRANT DEPARTURE

Presentation of information in this section does not necessarily constitute a recommendation by the probation officer for a departure.

Pursuant to U.S.S.G. § 4A1.3, "if reliable information indicates that the criminal history category does not adequately reflect the seriousness of the defendant's past criminal conduct or the likelihood that the defendant may commit other crimes, the Court may consider imposing a sentence departing from the otherwise applicable guideline range." The defendant's lengthy criminal history indicates that he is likely to commit other crimes.

Respectfully submitted,
CAROLYN CAMPBELL
CHIEF U.S. PROBATION OFFICER

By Angela K. Broadwater
 U.S. Probation Officer

Case #2 Interview

Excerpt from initial interview with Joe Rocky Green, April 28, 1997, 2:00 p.m.

Q: You left the halfway house on Friday, right?

A: Yeah.

Q: Where are you living now?

A: That's a good question.

Q: Why do you say that?

A: Because today I'm living on 14th Street with my boy's mama, but she already told me I got to get out. So I'll probably be moving on in a day or two.

Q: Why did she tell you to get out?

A: We already had one disagreement too many for her taste, I guess.

Q: What's her name?

A: She is Ms. Gertrude Getty, that's still her name. She never did want to marry me, I guess I see why. She never did really want me in her house either. She called the police to get me out of there once before, and I guess she'll do it again if I don't get out when she tell me to.

Q: But she let you move in there from the halfway house?

A: Women always love to change their mind. No offense.

Q: Why did she change her mind?

A: Oh, I think she had this idea that Joey do better with his daddy around, that I would make him mind. He's seven years old and already too much to handle. But I don't know this boy. I ain't seen him since he was just a little tiny thing. So she say yesterday, "Joe Rocky, why don't you take Joey down to the park," and before I even have a chance to answer, he say, "No thanks." He wants to play with his friends. And she got mad at me. I say, "He don't even know me, what do you expect?" And she say, "Whose fault is that?"

Q: And she asked you to leave?

A: Well, one thing led to another, and she did. Not to leave right then, but she said don't unpack any more because I'm not going to be around that long.

Q: Where are you going to go?

A: Go stay with my mama again, I expect, if it comes to that. But first I'm going to go back to see Gertrude and see if she's in a better mood than she was yesterday.

Q: If she's not, is it okay with your mother if you move in with her?

A: Yeah, she likes having me around long as I'm not drinking anything. She say, "Come stay with me anytime."

Q: Are you working?

A: Not yet. They got so much counseling going on over at that halfway house, it's hard to hold a job. I'm looking, though, now that I'm out of there.

Q: You know, it's a condition of your supervision for you to find a job.

A: I know it. They'll take me back at the mill, I'm pretty sure. I done a good job for them when I was there before.

Q: When are you going to talk to them?

A: I'll go out there tomorrow.

Chron entry

April 29, 1997, 9:40 a.m.—phone conversation with Gertrude Getty

Getty confirmed that Green is residing with her, their 7-year-old son, Joe Rocky Getty, and her 4-year-old daughter from another relationship, Rachelle Getty. She said she has decided to let Green stay another week and then will decide what to do next. She said, "He's on probation with me, too, so I don't know how long it's going to last." She said Green seems serious about staying off alcohol, and that's a point in his favor, but if he wants to live with her he needs to get a job. She said, "Plus it's just hard to get used to somebody all over again after that many years." Most of the time he was in prison she did not hear from him; he initiated a correspondence with her less than a year ago. She is now employed as a manicurist at Beautiful You on Summers Street.

Case #2 NCIC Report

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
IDENTIFICATION DIVISION

C0000011A

PCN 100000000051

BECAUSE ADDITIONS OR DELETIONS MAY BE MADE AT ANY TIME, A NEW COPY SHOULD BE REQUESTED WHEN NEEDED FOR SUBSEQUENT USE.

---- FBI IDENTIFICATION RECORD ---- FBI NUMBER --574661XX1

WHEN EXPLANATION OF A CHARGE OR DISPOSITION IS NEEDED, COMMUNICATE DIRECTLY WITH THE AGENCY THAT FURNISHED THE DATA TO THE FBI.

NAME	FBI NO.	DATE REQUESTED			
Joe Rocky Green	574661XX1	04/18/97			
SEX	RACE	BIRTH DATE	HEIGHT	WEIGHT	EYES
M	B	04/01/63	5'7"	140	BROWN

HAIR	BIRTH PLACE
BROWN	Easton, Oceana

FINGERPRINT CLASS
MO PM PM PM 16
10 PO XI CI 15

ALL ARREST ENTRIES CONTAINED IN THIS FBI RECORD ARE BASED ON FINGERPRINT COMPARISONS AND PERTAIN TO THE SAME INDIVIDUAL.

ARRESTED OR RECEIVED: 3/5/70 Shoplifting; dismissed.

ARRESTED OR RECEIVED: 2/5/77 Receiving stolen property, three counts; six months probation for each count.

ARRESTED OR RECEIVED: 6/6/77 Delinquent; dismissed with warning, probation continued.

ARRESTED OR RECEIVED: 7/12/81 Theft of property; pled guilty; one-year custody, suspended for one-year probation, \$75 restitution, \$200 fine.

ARRESTED OR RECEIVED: 7/31/77 Delinquent; on 8/14/77 committed to Easton Youth Correctional Center (EYCC); commitment order rescinded on 8/5/78.

ARRESTED OR RECEIVED: 2/10/78 Delinquent; on 3/23/78 remanded to EYCC; commitment order rescinded on 8/5/78.

ARRESTED OR RECEIVED: 4/29/78 Delinquent; on 6/4/78 remanded to EYCC; commitment order rescinded on 8/5/78.

ARRESTED OR RECEIVED: 6/9/82 Theft of property; pled guilty; credit time served, six days.

ARRESTED OR RECEIVED: 1/14/83 Breaking and entering; disposition unknown.

ARRESTED OR RECEIVED: 3/26/84 Theft of property; pled guilty; one year custody, suspended for one year probation, \$25 restitution, \$100 fine.

ARRESTED OR RECEIVED: 12/14/84 Malicious destruction of property; not guilty.

ARRESTED OR RECEIVED: 4/15/87 Shoplifting; not guilty.

ARRESTED OR RECEIVED: 4/29/87 Theft, harassment; disposition unknown.

ARRESTED OR RECEIVED: 12/30/88 Malicious destruction of property; disposition unknown.

ARRESTED OR RECEIVED: 7/3/90 Non-support; disposition unknown.

ARRESTED OR RECEIVED: 7/6/90 Consuming on the street; disposition unknown.

Case #3 Background

Jeffrey D. Silver



On March 26, 1997, Jeffrey D. Silver received a sentence of five years' probation. This term consists of five years on Count 1 of his offense and five years on Count 2, such terms to run concurrently. The terms commenced after a 90-day stay at a halfway house/drug and alcohol treatment center, which began on the sentencing date. The court imposed eight special conditions, including participation in a home confinement program with electronic monitoring for 180 days, participation in a substance abuse treatment program, and repayment of his financial obligation to the IRS.

Today is June 27, 1997. You met with Silver briefly while he was in the halfway house and interviewed him in your office yesterday. This morning you verified what he told you about his living arrangements through an unscheduled home contact.

Case #3 Presentence Report

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF NEW PLAIN

UNITED STATES OF AMERICA)	PRESENTENCE INVESTIGATION REPORT
)	
V.)	GUIDELINE
)	
SILVER, JEFFREY D.)	DOCKET NO. 92CR00828-001-PAR-SJ

Prepared For: The Honorable Sam Jones
 District Judge

Prepared By: Michael Smith
U.S. Probation Officer
Parkesville, New Plain (000) 555-7515

Assistant U.S. Attorney	Defense Counsel
Joseph Davis	Theodore Rose (appointed)
Acapulco Building, Suite 8310	4400 E. Broadway, Suite 806
110 South Church Avenue	Parkesville, New Plain 34543
Parkesville, New Plain 34543	(000) 555-6324
(000) 555-7300	

Sentencing Date: March 26, 1997

Indictment: Count 1: False, Fictitious, or Fraudulent Claims, 18 USC 287, a Class D felony. Up to five years imprisonment; \$250,000 fine.

Count 2: Conspiracy to Defraud the Government with Respect to Claims, 18 USC § 286, a Class C felony. Up to 10 years imprisonment; \$250,000 fine.

Detainers: Pardoe County Superior Court

Codefendants: None

Related Cases: None

Identifying Data:

Place of Birth: Meighersburg, New Plain
Date of Birth: October 1, 1972
Age: 24
Race: White, Non-Hispanic
Sex: Male
SSN: 526-56-9024
FBI No: None
USM No: 38485-008
Other ID No: New Plain Driver License 339569024 (expires
October 1, 2005)
Education: Associate's degree
Dependents: None
Citizen of: United States

Last Address: 1437 West Sherwin Avenue, Apt. 3
Parkesville, New Plain 34567
Aliases: None
Height: 5'8"
Weight: 140 pounds
Eye Color: Brown
Hair Color: Brown
Tattoos: Yin yang on right bicep
Scars: Left wrist
Marks: None

Presentence Report SILVER, Jeffrey

PART A. THE OFFENSE

Charges and Convictions

1. Jeffrey Silver was charged in a two-count indictment filed June 7, 1996, in United States District Court, Parkesville, New Plain. Count 1 charges the defendant with presenting a false claim to the Internal Revenue Service (IRS) for a 1994 tax refund. Count 2 of the indictment charges conspiracy to file the false claim referred to in Count 1.
2. Silver was arrested October 3, 1996. He was ordered detained October 10, 1996, and has remained in custody. On January 12, 1997, he was found guilty of both counts by a jury.

The Offense Conduct

3. From July to December 1994, Jeffrey Silver worked for Delivery Incorporated, a distributor for stores. The defendant worked 22 weeks and earned approximately \$100 per week. The defendant received weekly paychecks and had minimal deductions taken for federal income tax and New Plain taxes. On January 31, 1995, Delivery Incorporated mailed the defendant a W-2 Wage and Tax Statement for 1994. The information on the W-2 included the following:

Wages	Federal Income Tax Withheld	Social Security Withheld	State Tax Withheld
\$2,211.79	\$212	\$148.21	\$48.65

4. On April 21, 1995, the IRS Service Center in Ogden, Utah, received Jeffrey Silver's 1994 tax return, but it was not signed. The service center sent the return back to him with an instruction that he sign it. On May 5, 1995, the service center received the return again. Attached to the return was an altered copy of his W-2. The W-2 had been erased and retyped. Numerical entries were altered as follows:

Wages	Federal Income Tax Withheld	Social Security Withheld	State Tax Withheld
\$4,423.58	\$2,423.79	\$296.42	\$97.30

5. The defendant's federal withholding was changed to a figure representing the sum of his gross wages of \$2,211.79 plus federal tax withholding of \$212. The remaining figures were doubled. The figures from the altered W-2 were then entered on the defendant's 1994 tax return. By doubling his gross income and by increasing his federal withholding by more than 1,000 percent, the defendant presented a false claim for a tax refund of \$2,421. The IRS used the figures the defendant provided and mailed him a refund check for \$2,358.10. The defendant deposited the check in his checking account and spent the proceeds. Approximately three months later, an IRS audit team discovered the irregularities and sent the defendant's file to the IRS Criminal Investigation Unit.

6. Investigators interviewed Silver in September 1996. The defendant told them that although he had signed the tax return, it had been prepared by his girlfriend's friend. Jane Swing, the defendant's girlfriend, was a 17-year-old high school student at the time. The defendant said the refund seemed high, but he accepted his girlfriend's claim that the amount was accurate. The defendant said he was also expecting a \$400 refund for a 1993 return he filed concerning wages and withholding for employment at a car wash. Investigators later learned that the defendant had 1993 gross earnings of \$337 and federal tax withholding of \$11 for his employment at the car wash.

7. During his testimony, the defendant admitted that he had signed his return. He testified that he had recognized the handwriting on the return as his girlfriend's, but he had believed a third party had performed the calculations. The defendant further testified that he had signed the tax return because his girlfriend had told him that it was correct. The defendant offered no explanation for a \$2,358.10 refund when he had earned only \$2,200 and paid \$212 in federal withholding. The defendant maintained that he had no involvement in altering the W-2 or preparing the false tax return. He further denied any involvement in a conspiracy to file a false claim.

Victim Impact

8. The victim is the IRS. The loss is \$2,358.10 and should be mailed to:

IRS Service Center
Post Office Box 111
Ogden, Utah 85603

Obstruction of Justice

9. There is no information suggesting the defendant impeded or obstructed justice.

Acceptance of Responsibility

10. The defendant's attorney provided the following:

11. Jeffrey Silver's girlfriend modified his 1994 W-2 and prepared his 1994 Form 1040 EZ with the same numbers listed on the altered W-2. She showed him the return and told him to sign it so that she could mail it. He questioned the large amount, but she explained that she had checked the numbers with the person who had been preparing her mother's returns for years, and he said they were correct. The defendant signed the return, and she mailed the form to the IRS.

12. Following sentencing, the defendant maintained his innocence and told the probation officer that he had no knowledge of the altered W-2 or Form 1040 EZ. He further maintained he had had no knowledge that the return had been sent without a signature until he received the IRS notice.

Offense Level Computations

13. The guidelines in effect at the time of sentencing are applied pursuant to 18 USC §§ 3553(a)(4) and 1B1.11. The counts are grouped under 3D1.1(b), since Count 1 is the object of Count 2.

- | | |
|--|----|
| 14. Base Offense Level: The guideline for violations of 18 USC §§ 286 and 287 is 2F1.1. The Base Offense Level is six. | 6 |
| 15. Specific Offense Characteristic: The loss to the IRS is \$2,358.10. | +1 |
| 16. Victim-Related Adjustments: None | 0 |
| 17. Adjustments for Role in the Offense: None | 0 |
| 18. Adjustment for Obstruction of Justice: None | 0 |
| 19. Adjusted Offense Level: | 7 |

- | | |
|--|---|
| 20. Adjustment for Acceptance of Responsibility: The defendant denied the factual elements of the offenses and has maintained his innocence. | 0 |
| 21. Total Offense Level: | 7 |
| 22. Chapter Four Enhancements: None | 0 |
| 23. Total Offense Level: | 7 |

PART B. DEFENDANT'S CRIMINAL HISTORY

Juvenile Record

24. None

Adult Criminal Convictions

	Date of Arrest	Conviction/ Court	Date/Sentence Imposed	Guideline	Points
25.	3-18-93 (Age 20)	Aggravated Assault; Resisting Arrest; Parkesville, NP Municipal Court	04-02-93: 18 months supervised probation	4A1.1(c)	1

Records indicate that the defendant was not represented by legal counsel. The case report indicates the defendant kicked and spit on a police officer. He resisted that arrest when he fought the officer while being handcuffed. The court imposed special conditions of probation, requiring the defendant to be employed full time, to attend GED courses, and to stay away from his father. On December 12, 1993, a probation violation warrant was issued based on the defendant's failure to report to the probation officer and for his failure to pay the \$100 fee to the victim fund. The petition also charges that the defendant moved without notifying his probation officer.

26.	07-01-94 (Age 21)	Criminal Damage; Parkesville, NP, Municipal Court	07-29-94: Six months supervised probation	4A1.1(c)	1
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The defendant was represented by legal counsel. The complaint indicates that the defendant intentionally damaged two windows at his mother's residence by punching them.

27.	08-11-94 (Age 21)	Resisting Arrest; Parkesville, NP, Municipal Court	09-18-94: 30 days jail	4A1.1(c)	1
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The defendant was not represented by legal counsel, but court records indicate that he waived his right. The defendant went to his mother's residence and caused a disturbance. When officers arrived and instructed the defendant to leave the premises, he refused.

28.	12-17-94 (Age 22)	Resisting Arrest; Parkesville, NP, Municipal Court	12-28-94: 15 days jail	4A1.2	0
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The defendant was not represented by legal counsel. The defendant went to his girlfriend's residence and caused a disturbance. When officers arrived and instructed the defendant to leave the premises, he refused.

29.	05-14-95 (Age 22)	Contempt of Court; Parkesville, NP, Municipal Court	05-20-95: 14 days imprisonment	4A1.2	0
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The defendant was not represented by legal counsel, but court records indicate that he waived his right. Case reports show that the defendant refused to obey a court order requiring him to stay away from his mother's residence.

30.	09-11-95 (Age 22)	Threatening and Intimidating; Parkesville, NP, Municipal Court	09-22-95: 30 days imprisonment	4A1.1(c)	1
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The defendant was not represented by legal counsel, but court records indicate that he waived his right. Case reports show that the defendant threatened the victim with an 11-inch knife.

Criminal History Computation

31. The defendant's criminal history points total four, III
which places him in Criminal History Category III.

PART C. OFFENDER CHARACTERISTICS

Personal and Family Data

32. Jeffrey Silver was born on October 1, 1972, in Meighersburg, New Plain. He is the only child born to Zoe Ziegler and Jeffrey Silver, Sr. The defendant's parents neither married nor lived together. The

defendant related that he has lived his entire life in Parkesville. He described his formative years as happy and said that he and his mother were supported by Welfare and lived in public housing. The defendant's father, a camera person for a television network, never provided assistance. The defendant does not maintain communication with him.

33. The defendant's mother married Eugene Carr when the defendant was 15. Since Carr did not like the defendant, the defendant moved in with an older maternal cousin, who provided free room and board. At 18, the defendant obtained his own apartment with a girlfriend, but the arrangement did not last long. For the past five years, he has lived in various apartments and with several roommates. The defendant's mother separated from Carr last year. She is a nurse's assistant at Parkesville General Hospital. She maintains weekly contact with the defendant.

34. The defendant reported that he has maintained regular communication with Jane Swing, his girlfriend, and that she is pregnant. He said he expects to become a father in late April but has no definite plans to marry Swing.

Physical Condition

35. The defendant appears healthy; he reports that he has no history of health problems.

Mental and Emotional Health

36. The defendant's mother said that the defendant attended a special school for children with behavioral problems. She also indicated that he was a good student, but just didn't like school. She said that she took the defendant to see a psychiatrist when he was about 8 years old for misbehaving in school. The psychiatric diagnosis was intermittent explosive disorder.

Substance Abuse

37. The defendant first consumed alcohol when he was 13. He reported he began drinking heavily when he was 16. He admitted he has an alcohol problem. The defendant first smoked marijuana at age 17 and began smoking it daily at age 19. At 20, he began snorting cocaine about once or twice weekly. The defendant first used crack cocaine in September 1992. His use of crack cocaine continued up to January 1995, when he underwent treatment at the urging of his girlfriend, who reportedly does not condone drug use. The defendant reported that he has rarely purchased drugs, and most were given to him by friends. He denies drug use after January 1995, but was fired for drug use on the job in 1996. (See ¶ 41 below.)

38. Silver completed a 28-day inpatient drug counseling program for his alcohol and crack cocaine abuse in January 1995. Information regarding his response to treatment was unavailable.

Education and Vocational Skills

39. Silver quit school when he was in the 10th grade to secure a job. He described himself as an average student who experienced few disciplinary problems. School records indicated that he began his sophomore year of high school, but quit December 16, 1988. Silver later obtained his GED and was later certified as a hazardous site cleanup technician.

Employment Record

40. Silver is currently unemployed.

41. Silver reported that he worked at four fast-food restaurants in 1995 and 1996. He averaged \$6 per hour as a maintenance person. The managers of three of the restaurants described the defendant as a good employee. However, the manager of the fourth, Burger Heaven, stated that Silver was fired in July 1996 when he was discovered snorting cocaine in a storage room.

42. From July to December 1994, Jeffrey Silver worked for Delivery Incorporated, a distributor for stores. The defendant worked 22 weeks and earned approximately \$100 per week. The job is related to the instant offense.

43. From August 1992 to June 1994, the defendant was unemployed.

44. From April 1992 to July 1992, Silver worked for a janitorial service, but he said he was unable to remember the company name. He said he was terminated from employment after being falsely accused of stealing.

Financial Condition: Ability to Pay

45. The defendant reported no significant assets or debts. His attorney was appointed by the court.

PART D. SENTENCING OPTIONS

Custody

46. Statutory Provisions:

Count 1 - Not more than five years. 18 USC § 287.

Count 2 - Not more than 10 years. 18 USC § 286.

47. Guideline Provisions:

Based on a Total Offense Level Seven and a Criminal History Category III, the guideline range for imprisonment is four to 10 months. 5A.

48. The minimum term of imprisonment may be satisfied by
(1) imprisonment; (2) imprisonment which includes a term of supervised release with a condition that substitutes community confinement or home detention, provided at least one month is satisfied by imprisonment; or
(3) probation which includes a condition or combination of conditions that substitute intermittent confinement, community confinement, or home detention for imprisonment.

Supervised Release

49. Statutory Provisions:

Counts 1 and 2 - Not more than three years. 18 USC § 3583(b)(2).

50. Guideline Provisions:

Two to three years. 5D1.2(a)(2). Supervised release is required only if the court imposes imprisonment of more than one year.
5D1.1(a).

Probation

51. Statutory Provisions:

Counts 1 and 2 - One to five years. 18 USC § 3561(c)(1). Because the offenses are felonies, one of the following must be imposed as a condition of probation unless extraordinary circumstances exist: a fine, restitution, or community service. 18 USC § 3563(a)(2).

52. Guideline Provisions:

One to five years because the Total Offense Level is Seven.
5B1.2(a)(1). Because the guideline range is in Zone B, a sentence of probation is authorized if the court imposes a condition or combination of conditions requiring intermittent confinement, community confinement, or home detention. 5B1.1(a)(2).

Fines

53. Statutory Provisions:

Counts 1 and 2 - Not more than \$250,000. 18 USC § 3571.

54. Guideline Provisions:

The fine range is \$500 to \$5,000. 5E1.2(c)(3).

55. Subject to the defendant's ability to pay, the court shall impose an additional fine amount sufficient to pay costs of any imprisonment, probation, or supervised release. 5El.2(i).

Costs are:

	Prison	Halfway House	Supervision
Per Month:	\$1,779.33	\$1,183.08	\$195.30

Special Assessment

56. Statutory Provisions:

\$50 per count of conviction. 18 USC § 3013(a).

57. Guideline Provisions:

\$50 per count of conviction. 5El.3.

Restitution

58. Statutory Provisions:

Restitution of \$2,358.10 may be ordered payable to the Internal Revenue Service. 18 USC § 3663.

59. Guideline Provisions:

Restitution shall be ordered. 5El.1.

Impact of the Plea Agreement

60. None

PART E. FACTORS THAT MAY WARRANT DEPARTURE

61. There is no available information concerning the offense or the offender which would warrant a departure from the sentencing guidelines.

PART F. SENTENCING RECOMMENDATION

TOTAL OFFENSE LEVEL: 7

CRIMINAL HISTORY CATEGORY: III

	Statutory Provisions	Guideline Provisions	Recommended Sentence
CUSTODY:	Count 1: Up to 5 years	4-10 months	None
	Count 2: Up to 10 years		
PROBATION:	Counts 1 and 2: 1 to 5 years	1-5 years	5 years (concurrent terms)

SUPERVISED RELEASE:	Counts 1 and 2: Not more than 3 years	2-3 years	None
FINE:	Counts 1 and 2: Up to \$250,000	\$500-\$5,000	Waive
RESTITUTION:	\$2,358.10	\$2,358.10	\$2,358.10
SPECIAL ASSESSMENT:	\$50 each count	\$50 each count	\$100 (total)

Justification

The 24-year-old defendant committed tax offenses resulting in losses of \$2,358.10. He has not accepted responsibility for the offense. The maximum authorized term of probation is recommended mainly to hold him accountable for his illegal conduct and to allow him ample opportunity to pay restitution and address his substance abuse. Should he be convicted and imprisoned for more than 30 days on his pending charges in Pardoe County Superior Court, the terms of probation would not commence until his release. He would then be subject to home confinement.

Voluntary Surrender

The defendant has been detained without bail since his arrest. He is not a candidate for voluntary surrender because of provisions found in 18 USC § 3143(a)(2).

Recommendation

It is respectfully recommended that sentence be imposed as follows:

Pursuant to the Sentencing Reform Act of 1984, it is the judgment of the Court that the defendant, Jeffrey Silver, is hereby placed on probation for five years. This term consists of five years on Count 1 and five years on Count 2, such terms to run concurrently.

The defendant shall pay a special assessment of \$50 on each count, totaling \$100, due immediately. If he is incarcerated, payments shall begin under the Bureau of Prisons Inmate Financial Responsibility Program. Payments shall be made to the Clerk, U.S. District Court.

The Court finds that the defendant does not have the ability to pay both a fine and restitution, and orders the fine and costs of incarceration be waived.

The defendant shall pay restitution totaling \$2,358.10 to the IRS. Restitution is due immediately or in regular monthly installments. If the defendant is incarcerated, payments shall begin under the Bureau of Prisons Inmate Financial Responsibility Program. Payments shall be made to the U.S. Attorney's Office, Financial Litigation Unit.

While on probation, the defendant shall comply with the standard conditions of supervision adopted by this Court in General Order 201, and with the following special conditions:

1. The balance of any financial obligation ordered by this Court shall be paid in regular monthly installments approved by the probation officer. The full amount is to be paid 90 days prior to the expiration of supervision.
2. The defendant shall participate as instructed by the probation officer in a program of substance abuse treatment, which may include testing for substance abuse. The defendant shall contribute to the cost of treatment in an amount to be determined by the probation officer.
3. The defendant shall submit to searches of person, property, vehicles, business, and residence to be conducted in a reasonable manner and at a reasonable time by, or at the direction of, the probation officer.
4. The defendant shall provide the probation officer access to any requested financial information.
5. The defendant is prohibited from making major purchases, incurring new financial obligations, or entering into any financial contracts without the prior approval of the probation officer.
6. The defendant shall participate in a Home Confinement Program with electronic monitoring under the sanction of home detention for a period of 180 days. The defendant shall contribute to the cost of electronic monitoring in an amount to be determined by the probation officer.
7. As directed by the probation officer, the defendant shall participate in a mental health program, which may include taking prescribed medication. The defendant shall contribute to the cost of treatment in an amount to be determined by the probation officer.
8. The defendant shall cooperate with the Internal Revenue Service and pay all tax liabilities. The defendant shall file timely, accurate, and lawful income tax returns and provide proof of such filing to the probation officer.

Respectfully submitted,

Thomas Smart
Chief U.S. Probation Officer

by _____
Michael Smith
U.S. Probation Officer

Approved by:

Bill Williams
Supervising U.S. Probation Officer

Date

Case #3 Interview

Excerpt from initial interview with Jeffrey D. Silver, June 26, 1997, 10:00 a.m.

Q: How's life outside the halfway house?

A: Noisy. I got a two-month-old boy at home. Jane and me.

Q: Congratulations! This is . . . Jane Swing, right? Is it still Swing? Did you get married?

A: Not yet, but we're gonna. She wants to wait awhile. She's trying to get her folks to come around. They're really pissed off about the kid. They kicked her out of their house—she's living in some dump. And I'm not their favorite person, for some reason—can't figure out why—so she thinks if we get married they'll get even madder.

Q: Do they know you're living together?

A: Not yet. I guess they're gonna find out if they ever come and see her, but so far they haven't.

Q: What's the address?

A: It's 2884 Ripley Avenue, apartment 4-C.

Q: Was Jane living alone with the baby till yesterday?

A: Yeah, and that's tough. I ain't seen many babies before, but if they're all like this one I don't know how people do it by themselves. This is one poopy little buddy.

Q: I don't think that's unusual.

A: Jane says she's really glad to have me around to help out. I said, "I don't know nothing about babies, but if I'm gonna be a dad I guess I better start learning." I fed him two bottles already, one last night and one this morning. She says next comes the diapers.

Q: How are you two managing financially?

A: She's got some assistance. And her mom's been sending her some money for baby stuff. I don't know if her dad knows. Jane's mom bought her a high chair and left it out in the hall with a note on it—she didn't even knock.

Q: Do you think they'll get friendlier when you get a job?

A: I really don't know, because what they really want is for her to marry some other guy.

Q: Not much chance of that, is there, with the baby?

A: Not a lot. But anyway, I got sort of a job already. My cousin does odd jobs—you know, handyman stuff, sometimes helping people move, stuff like that. And I been helping him out some—he calls me when he needs another hand. I started doing that in the halfway house.

Q: How much work does that amount to?

A: So far I worked two days one week and one day another week.

Q: So it's not something you can depend on?

A: Well, no, but it's better than nothing.

Q: Are you looking for something steadier?

A: I guess I'm gonna have to if I want to support this baby.

Q: I see from your presentence report that you're certified as a hazardous site cleanup technician, but I don't see any mention of you doing that kind of work. Is that a possibility?

A: I don't know why I ever picked that field to get certified in. All that toxic stuff. If I wanted to die young I'd start smoking again.

Q: It also says here you have an associate's degree. Is that something different from the certification?

A: Yeah, I felt like I was on a roll after I got the G.E.D., so I started up community college. It's not much of a school, really. I didn't have to do much to get through there.

Q: What's your degree in?

A: Retail management.

Chron entry

June 26, 1997, 3:15 p.m.—phone conference with Fairmont College Registrar's Office

Associate's degree 1991 confirmed.

Chron entry

June 27, 1997, 11:00 a.m.—home contact with Jane Swing

Unscheduled home contact; Silver was not at home. Swing said he is looking for work. I introduced myself to Swing, spent about 20 minutes with her, and left my card. (The baby slept in a bassinet in the living room while we talked). Swing seems happy with the baby and reasonably content with Silver, but she asked if he had mentioned that the baby may not be his.

Swing said, “Jeff and me, we go way back. Plus he knows it was his own fault that I ever went out with that Bobby Harlan. I never would have even talked to that jerk if Jeff hadn’t started doing crack again. And when Jeff quit, I quit seeing Bobby—we only went out three times.”

She provided the following explanation of Silver’s failure to accept responsibility for the instant offense: “I never lied to Jeff. When I told him I was pregnant, I said it might be his baby and it might not. And I guess when Jeff got arrested, he was still kind of annoyed about Bobby and about me not knowing whose baby it was, so he blamed that whole tax refund thing on me, which was just stupid. That sure made my mom and dad mad. It made me mad, too, for a while, but I guess I can understand Jeff being upset. And he’s being really great about the baby now. I told him the only way to be sure he’s Jared’s father is to get blood tests, and he said no thanks, he doesn’t even care. He loves us both and he’s going to be a father to Jared, unlike some so-called fathers he could name. I really do think Jared looks like Jeff, don’t you?”

Case #3 NCIC Report

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
IDENTIFICATION DIVISION

C0000011B

PCN 100000000021

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FBI IDENTIFICATION RECORD --- FBI NUMBER --- NO RECORD FOUND

WHEN EXPLANATION OF A CHARGE OR DISPOSITION IS NEEDED, COMMUNICATE DIRECTLY WITH THE AGENCY THAT FURNISHED THE DATA TO THE FBI.

NAME	FBI NO.	DATE REQUESTED
Jeffrey D. Silver	None	06/26/97

SEX	RACE	BIRTH DATE	HEIGHT	WEIGHT	EYES
M	W	10/01/72	5'8"	140	BROWN

HAIR	BIRTH PLACE
BROWN	Meighersburg, New Plain

FINGERPRINT CLASS				
PO	PM	PM	PM	16
10	PO	XI	CI	18

Arrested	Charge/District	Disposition
12-10-91	Public Intoxication Parkesville, NP	No complaint
12-15-91	Assault Parkesville, NP	Dismissed
03-18-93	Aggravated Assault; Resisting Arrest; Parkesville, NP Municipal Court	04-02-93 18 months supervised probation
07-01-94	Criminal Damage; Parkesville, NP Municipal Court	07-29-94 Six months supervised probation
08-11-94	Resisting Arrest; Parkesville, NP, Municipal Court	09-18-94 30 days jail
12-17-94	Resisting Arrest; Parkesville, NP, Municipal Court	12-28-94 15 days jail
05-14-95	Contempt of Court; Parkesville, NP, Municipal Court	05-20-95 14 days imprisonment
09-11-95	Threatening and Intimidating; Parkesville, NP, Municipal Court	09-22-95 30 days imprisonment
10-03-96	False, Fictitious, or Fraudulent Claims; Conspiracy to Defraud the Government; U.S. District Court for District of NP	Disposition unknown